

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----X	:
In re	: Chapter 9
	:
CITY OF DETROIT, MICHIGAN,	: Case No. 13- 53846
	:
Debtor.	: Hon. Steven W. Rhodes
	:
-----X	:

**EX PARTE MOTION FOR AN ORDER SHORTENING NOTICE
AND SCHEDULING AN EXPEDITED HEARING WITH RESPECT
TO THE CITY OF DETROIT’S MOTION IN *LIMINE* TO EXCLUDE
DEPOSITION TESTIMONY OF GARY EVANKO AND MICHAEL HALL**

The City of Detroit hereby moves for the entry of an *ex parte* order pursuant to Rules 9006(c)(1) and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Michigan (the “Local Rules”) (a) shortening the notice period with respect to the City of Detroit’s Motion in *Limine* To Exclude Deposition Testimony of Gary Evanko and Michael Hall (the “Principal Motion”), and (b) scheduling a hearing on the Principal Motion for October 14, 2014, or at another time convenient for the Court. In support of this *Ex Parte* Motion, the City respectfully states as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

Relief Requested

2. The City filed the Principal Motion contemporaneously with the filing of the instant *Ex Parte* Motion. In the Principal Motion, the City seeks entry of an order excluding the deposition testimony of Gary Evanko and Michael Todd from evidence at the hearing on plan confirmation.

3. By this *Ex Parte* Motion, the City seeks an order (a) shortening notice with respect to its Principal Motion; (b) scheduling a hearing on the Principal Motion for October 14, 2014, when the hearing on plan confirmation resumes; and (c) granting such other and further relief to the City as the Court deems appropriate.

Basis for Relief

4. Bankruptcy Rule 9006(c)(1) provides that “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1). Local Rule 9006-1(b) further provides that “a party may file

a motion for an *ex parte* order reducing or enlarging the time for a party to take any action or file any paper.” E.D. Mich. LBR 9006-1(b).

5. In addition, pursuant to Bankruptcy Rule 9007, “[w]hen notice is to be given under the [Bankruptcy Rules], the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.” Fed. R. Bankr. P. 9007.

6. Together, these rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on shortened notice and approve the manner of notice of such hearing.

7. On October 4, 2014, certain objecting creditors filed a witness list in which they indicated that they intended to submit deposition testimony for Gary Evanko and Michael Hall in lieu of calling these witnesses to testify live. *See* COPs Creditors Order of Witnesses for Plan Confirmation Hearing [Docket No. 7820]. As explained more fully in its Principal Motion, the City believes that this is not justified, and it has moved in this Court for an order excluding the transcripts from evidence.

8. Due to the need to determine whether Mr. Evanko and Mr. Hall must be called to testify live, the City submits that its Principal Motion should be heard when the hearing on plan confirmation resumes on October 14, 2014.

9. Pursuant to Local Rules 9006-1(b) and 9014-1(g), on October 6, 2014, the City alerted the objecting creditors to the relief sought in the Principal Motion by announcing in court its intention to file the Principal Motion. At that time, the objecting creditors indicated that they did not concur with the relief sought by the City. The City will serve this *Ex Parte* Motion via the Court's ECF system to the parties in the above-captioned adversary proceeding, and will provide notice of the *ex parte* order promptly upon issuance.

10. For these reasons, the City submits that cause exists to schedule the hearing on its Principal Motion for October 14, 2014, on shortened notice, so that it may be resolved in time to allow the objecting creditors to determine whether to call Mr. Evanko or Mr. Hall as witnesses.

WHEREFORE, the City respectfully requests that the Court enter an order, substantially in the form attached as Exhibit 1, granting the relief requested in this *Ex Parte* Motion and granting such further relief as the Court deems appropriate.

Dated: October 7, 2014

Respectfully submitted,

/s/ Bruce Bennett

Bruce Bennett (CA 105430)
JONES DAY
555 South Flower Street
Fiftieth Floor
Los Angeles, California 90071
Telephone: (213) 243-2382
Facsimile: (213) 243-2539
bbennett@jonesday.com

David G. Heiman (OH 0038271)
Heather Lennox (OH 0059649)
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
dgheiman@jonesday.com
hlennox@jonesday.com

Thomas F. Cullen, Jr. (DC 224733)
Gregory M. Shumaker (DC 416537)
Geoffrey S. Stewart (DC 287979)
JONES DAY
51 Louisiana Ave., N.W.
Washington, D.C. 20001
Telephone: (202) 879-3939
Facsimile: (202) 626-1700
tfcullen@jonesday.com
gshumaker@jonesday.com
gstewart@jonesday.com

Robert S. Hertzberg (P30261)
Deborah Kovsky-Apap (P68258)
PEPPER HAMILTON LLP
4000 Town Center, Suite 1800
Southfield, MI 48075
Telephone: (248) 359-7300
Facsimile: (248) 359-7700
hertzbergr@pepperlaw.com
kovskyd@pepperlaw.com

ATTORNEYS FOR THE CITY OF DETROIT

SUMMARY OF ATTACHMENTS

The following documents are attached to this Motion, labeled in accordance with Local Rule 9014-1(b).

Exhibit 1	Proposed Form of Order
Exhibit 2	None [Motion Seeks <i>Ex Parte</i> Relief]
Exhibit 3	None [Brief Not Required]
Exhibit 4	None [Separate Certificate of Service to be Filed]
Exhibit 5	None [No Affidavits Filed Specific to This Motion]
Exhibit 6	None [No Documentary Exhibits Filed Specific to This Motion]

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----X	:
In re	: Chapter 9
	:
CITY OF DETROIT, MICHIGAN,	: Case No. 13- 53846
	:
Debtor.	: Hon. Steven W. Rhodes
	:
-----X	:

**ORDER GRANTING DEBTOR’S *EX PARTE* MOTION FOR AN ORDER
SHORTENING NOTICE AND SCHEDULING
AN EXPEDITED HEARING**

This matter coming before the Court on the *Ex Parte* Motion for an Order Shortening Notice and Scheduling an Expedited Hearing with Respect to the City of Detroit’s Motion in *Limine* to Exclude Deposition Testimony of Gary Evanko and Michael Hall (the “Motion”);¹ the Court having reviewed the Motion; having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iv) notice of the Motion was sufficient under the circumstances; having determined after due deliberation that the relief requested in the Motion is in the

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

best interests of the Debtor and its creditors; and good and sufficient cause having been shown;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED**.
2. A hearing with respect to the City of Detroit's Motion in *Limine* to Exclude Deposition Testimony of Gary Evanko and Michale Hall shall be held on October 14, 2014, at 8:30 a.m. (prevailing Eastern Time) before the Hon. Steven Rhodes at the Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, Michigan.
3. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
4. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order.
5. Nothing herein or in the Motion is intended to, shall constitute or shall be deemed to constitute the City's consent pursuant to section 904 of the Bankruptcy Code to this Court's interference with (a) any of the political or governmental powers of the City, (b) any of the property or revenues of the City or (c) the City's use or enjoyment of any income-producing property.